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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,566	10/15/2003	Ivan Osorio	011738.00151	7141
22908	7590	04/22/2005	EXAMINER	
BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606			LE, JOHN H	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/687,566

Applicant(s)

OSORIO ET AL.

Examiner

John H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 51-53 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-29, 30-31, 35-36, 42-45, 50-53, drawn to an apparatus and method for synchronizing a plurality of clocks in a medical device system, the medical device system providing treatment to a patient with a nervous system disorder, the apparatus comprising a processor configured to perform the steps of setting the second clock to the selected time.
  - II. Claims 38-41, drawn to a method for synchronizing a plurality of clocks wherein at least one of the clocks is associated with a medical device system, the plurality of clocks comprising a first slave clock and a master clock.
  - III. Claims 32-34, 37, 46-49, drawn to an apparatus and method for calibrating a plurality of clocks in a medical device system, the medical device system providing treatment to a patient with a nervous system disorder, the apparatus comprising a processor configured to perform the steps of subtracting the current time from the reference time in order to determine a drift time.

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions such as inventions of group I and group II have

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different method as the method of group I does not require steps of (a) determining whether to synchronize the first slave clock to the master clock; (b) in response to step (a), sending a reference time by the master clock; and (c) setting the first slave clock to the reference time of group II and the method of group II does not require steps of (a) receiving a selected time associated with the second clock, the selected time different than a reference time that is associated with the first clock, wherein at least the first clock or the second clock is associated with the medical device system; and (b) setting the second clock to the selected time, in response to step (a) of group I.

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention has separate utility such as an apparatus and method of group I does not require steps of (a) reading a current time from the second clock; (b) obtaining the reference time; (c) subtracting the current time from the reference time in order to determine a drift time; and (d) storing a drift time into a memory of group III and an apparatus and method of group III does not require steps (a) receiving a selected time associated with the second clock, the selected time different than a reference time that is associated with the first clock, wherein at least the first clock or the second clock is associated with the medical device system; and (b) setting the second clock to the selected time, in response to step (a) of group I. See MPEP § 806.05(d).

Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of

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operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions such as inventions of group II and group III have different method as the method of group II does not require steps of (a) reading a current time from the second clock; (b) obtaining the reference time; (c) subtracting the current time from the reference time in order to determine a drift time; and (d) storing a drift time into a memory of group III and the method of group III does not require steps of (a) determining whether to synchronize the first slave clock to the master clock; (b) in response to step (a), sending a reference time by the master clock; and (c) setting the first slave clock to the reference time of group II.

2. A telephone call was made to Attorney Binal Patel on 04/14/2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

#### ***Contact Information***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John H Le whose telephone number is 571-272-2275. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John H. Le

Patent Examiner-Group 2863

April 16, 2005



John H. Le  
Supervisory Patent Examiner  
Technology Center 2800